



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/224,219	12/30/1998	S. VINCENT BIRLESON	45981-P016US	3976

29053 7590 03/27/2003

DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.
2200 ROSS AVENUE
SUITE 2800
DALLAS, TX 75201-2784

EXAMINER

GESESSE, TILAHUN

ART UNIT	PAPER NUMBER
----------	--------------

2685

DATE MAILED: 03/27/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/224,219

Applicant(s)

BIRLESON, S. VINCENT

Examiner

Tilahun B Gesesse

Art Unit

2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 38-53 is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☒ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).
3. Claims 1 – 37 are rejected under 35 U.S.C. 102(e) as being anticipated by Caporizzo et al (us 6,014,547).

As to claims 1,9 and 32-33, Caporizzo et al disclose a tuner (11) for extracting specific signals from a set of signals on a carrier (RF input, col.2 lines 42-58) wherein the set of signals have at least one of a set of measurable characteristics, (a settop terminal (12) which measures the input RF carrier signal power level at several frequencies with the CATV RF input bandwidth upon system power up, col. 3 lines 34-54). Caporizzo et al disclose means (14,16) for determining from a measurement of the measurable characteristics that are present in a particular set of signals certain desirable tuner operating characteristics, (col. 3 lines 34-54 and fig.2). Caporizzo et al disclose means operable under control of said determining means for

Art Unit: 2685

changing the operating characteristics of said tuner, (col.3 lines 1-14, col.3 lines 34-44,fig.5).As to claims 2,4,7-8,19-20, Caporizzo et al disclose means for changing power levels with respect to said tuner components,(abstract). As to claim 3, Caporizzo et al disclose means for determining optimum operating characteristics for said tuner depending upon said determined operating characteristics, (abstract). As to claim 5, Caporizzo et al disclose the tuner is constructed on a single substrate (fig.2). As to claim 6, Caporizzo et al disclose the method of operating a tuner (col. 3 line 62-col.4 lines 7). Caporizzo et al disclose assessing from time to time the incoming signal environment wherein an assessment of said incoming signal environment is a function of signals being processed by said tuner, (col.5 lines 41-44). Caporizzo et al disclose based on the assessment environment selecting an operating level for said tuner (col.5 lines 44-47) ; and Caporizzo et al disclose setting the operation of said tuner consistent with said selected operating level (col.4 lines 58-col.5 line 23). As to calims 10-11, Caporizzo et al disclose the determining step includes taking signal measurements of the signal being processed by the tuner (abstract). As to claim 12,21 Caporizzo et al disclose receiving from external source to the tuner (RF input of CATV fig.1). As to claim 13, 22,Caporizzo et al disclose monitoring the RF input and the inband receive signal strength (microprocessor) (fig.2). As to claim 14-15 and 17,23 Caporizzo et al disclose adjusting the number of components that are active at any particular time (col.4 lines 15-28). As to claim 16, 24-25, Caporizzo et al disclose the channel sweep and static method at different times (col.5 lines 30-36). As to claims 18,26-27, Caporizzo et al disclose a tuner comprising the circuit for determining tuner operating characteristics from knowledge of the signals being processed by the tuner (fig.2) and at least one circuit for adjusting the operating characteristics in accordance

Art Unit: 2685

with said determining the circuitry fig.5) . As to claims 28-29, Caporizzo et al disclose adjusting the number of components that are active at any particular time (col.4 line 55-col. 5 line 23) .

As to claim 30, Caporizzo et al disclose receiving from external source (RF input of CATV),fig.1. As to claim 31,34-37. Caporizzo et al disclose the channel sweep and static method at different times (col.5 lines 30-36).

Allowable Subject Matter

4. Claims 38-53 are allowed over the prior art. The following is an examiner's statement of reasons for allowance: the instant invention is directed to tuner system self adaptive to signal environment. The independent claim unique structural feature “ environment assessment means for providing input signal environmental assessment, means for determining a power level from the input signal environmental assessment information, wherein the said power level determining means is coupled to said input signal environmental assessment means for communication of said input signal environmental assessment information ,means for controlling power level information and means for tuning a selected signals from set of signals.” The prior art Caporizzo et al (us 6,014,547) fail to the underlined limitation render obvious.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Response to Arguments

5. Applicant's response to the office action filed 12/25/02 has been considered but not persuasive for the following reasons.

On page 11-12, first through second paragraph respectively of the response, applicant argued that Caporizzo does not disclose determining from measurement of the measurable characteristics from set input signal to said tuner operating characteristics. The examiner disagrees. Caporizzo discloses a system for use with a CATV settop terminal measures the input RF carrier signal power level at several frequencies within the CATV RF input bandwidth upon system power up and improve RF tuner performance (abstract). On the same page and paragraph, applicant argued that Caporizzo does not disclose adjustment circuitry operable in cooperation with said determination circuitry for changing power level to certain tuner component. The examiner disagrees. Caporizzo discloses RF preprocessing section (14) determines the RF input signal and adjustment circuitry (16) for changing power level to certain tuner component "bandwidth" (fig.2 and 5).

On pages 12-13, third through second paragraphs respectively of response , applicant argued that Caporizzo does not disclose adjustment of tuner component power consumption. The examiner disagrees. Caporizzo discloses upon energizing the system 10, the microprocessor 20 disables the equalizer 50 so the that RF input may be analyzed and microprocessor 20 controls the HI-IF section 16 ,col.4 lines 56-col.5 line 6. The disabled equalizer reduces the power consumption of the tuner and the microprocessor controls the other elements of the tuner in order to adjust the selected signals by the tuner.

On page 13-14 , third through first paragraph respectively of response, Applicant argued that Caporizzo does not teach claim 6, assessing from time to time the incoming signal environment , wherein an assessment of said incoming signal environment is a function of the signals then being processed by said tuner; based upon said assessed incoming signal

environment selecting an operating level for said tuner and setting the operation of said consist with said selected operating level. The examiner disagrees. Caporizzo discloses the RF input signal being assessed by RF preprocessor section (14) from time to time whether the incoming signal is distorted or not, then based on the assessment the HI-IF section (16) and Lo-IF section being controlled by microprocessor adjust the or filter the distorted signal (col.2 line 31-65 and fig.2)

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Finally, the examiner strongly believes that the Caporizzo anticipates to the broadly recite applicant claims, therefore, the rejection is maintained and made final.

Conclusion

6. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dang et al (5,949,472) disclose method and apparatus for tuning channels (abstract).

8. ***Any response to this action should be mailed to:***

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for formal communications intended for entry)

Or:


*(703) 746-6042 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")*

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor, (Receptionist). Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tilahun Gesesse whose telephone number is (703) 308-5873.. The examiner can normally be reached on Monday-Friday from 8:00 am to 4:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward F. Urban, can be reached on (703) 305-4385. The fax phone number for this Group is (703) 872-9314. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4750.

TBG

March 10, 2003

Tilahun Gesesse


EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600